

AMENDED IN SENATE MARCH 22, 2006

SENATE BILL

No. 1310

Introduced by Senator Kuehl

February 16, 2006

An act to *amend Sections 4593.2, 4593.3, 4593.6, 4593.7, and 4594 of, and to add Sections 4513.5 and 4525.9 to, 4525.9, 4593.12, and 4594.3 to*, the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1310, as amended, Kuehl. Forest resources: sustained yield plans *and nonindustrial timber management plans*.

(1) The existing Z'berg-Nejedly Forest Practice Act of 1973 regulates timber harvesting on timberland, as specified, including prohibiting a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection (*department*), as specified, and approved. A willful violation of the act is a crime.

This bill would require a timberland ownership of more than 50,000 acres to be governed by a sustained yield plan, as the bill would define that term, to achieve specified resource protection goals. The bill would require the owner of a timberland ownership of more than 50,000 acres, on or before January 1, 2009, to submit a sustained yield plan to the department for review and approval, and to include in that sustained yield plan an assessment of the cumulative impacts of timber harvesting on fish, wildlife, ~~and~~ water quality, *and the behavior of wildfire*. Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local

program. The bill would require department review of a proposed sustained yield plan to be subject to public review, as specified.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

(2) The act authorizes a person who intends to become a nonindustrial tree farmer to file with the department a nonindustrial timber management plan, as defined, and imposes specified requirements with respect to a filed or approved nonindustrial timber management plan, on the department and the nonindustrial tree farmer. The act defines “nonindustrial tree farmer” as an owner of timberland with less than 2,500 acres who has an approved nonindustrial timber management plan and is not primarily engaged in the manufacture of forest products. The act defines “uneven aged management” as the management of a specific forest, with the goal of establishing a well stocked stand of various age classes and that permits the periodic harvest of individual or small groups of trees to realize the yield and continually establish a new crop. The act gives the Director of Forestry and Fire Protection 45 days, or a longer period, as specified, to review a nonindustrial timber management plan, for conformance with specified requirements.

The bill would increase the number of acres of timberland that a nonindustrial tree farmer could own to less than 10,000 acres, except for timberland in the Southern Sub-District of the Coast District, where the maximum number of acres would remain less than 2,500. The bill, in the definition of “uneven aged management,” would require the forest to be managed so that the volume of each managed stand increases when measured over any 10-year period until the stand reaches 80% of the site’s productive capacity, as soon as reasonably possible. The bill would impose additional requirements on the department, the State Board of Forestry and Fire Protection, and a nonindustrial tree farmer with respect to a nonindustrial timber management plan, including requiring the department to post a copy of the plan on a publicly accessible Internet Web site, as specified, and to convene at least one multiagency site inspection of the land covered by the nonindustrial timber management plan, as specified. Because a local agency would be included in the list of agencies

included for that multiagency site inspection, the bill would impose a state-mandated local program. The bill would require the Department of Fish and Game and the appropriate California regional water quality control board to conduct site inspections of specific lands covered by a nonindustrial timber management plan. The bill would increase to 90 days, or a longer period, as specified, the time the director has to review a nonindustrial timber management plan for conformance with specified requirements. The bill would also give the public 90 days to review the plan and would give the director, after a specified time, up to 15 working days, or a longer period, as specified, to review the public input, consider recommendations and mitigation measures of other agencies, respond in writing to the issues raised, and determine if the plan is in conformance with specified requirements. The bill would require a nonindustrial timber management plan to comply with specified regulations. The bill would require a nonindustrial tree farmer to conduct surveys for wildlife and plants, as specified, before filing a nonindustrial timber harvest notice. The bill would require, 5 years after approval of a timber harvesting plan, and every 5 years thereafter, the nonindustrial tree farmer to file a specified report with the department. Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The bill would require the board to adopt regulations regarding nonindustrial timber management plans, as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4513.5 is added to the Public Resources Code, to read:

4513.5. To achieve sustainable management of timberland and to achieve the resource protection goals of Sections 4512 and 4513, a timberland ownership of more than 50,000 acres shall be governed by a sustained yield plan. On or before January 1, 2009, the owner of a timberland ownership of more than 50,000 acres shall submit a sustained yield plan to the department for review and approval, and shall include in that sustained yield plan an assessment of the cumulative impacts of timber harvesting on fish, wildlife, ~~and water quality~~ *water quality, and the behavior of wildfire*. Department review of a proposed sustained yield plan is subject to public review pursuant to the forest practice rules adopted by the board and shall be available for public review for _____ weeks.

SEC. 2. Section 4525.9 is added to the Public Resources Code, to read:

4525.9. “Sustained yield plan” means a document prepared in accordance with the forest practice rules adopted by the board, and that, upon approval by the department, is a discrete and publicly available document, that the department shall make available for review and copying at the department’s regional headquarters that provides services for the timberlands covered by the sustained yield plan.

~~SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

SEC. 3. Section 4593.2 of the Public Resources Code is amended to read:

4593.2. Notwithstanding Section 4521, unless the context otherwise requires, the following definitions govern construction of this article:

1 (a) “Nonindustrial timberlands” means timberland owned by a
2 nonindustrial tree farmer.

3 (b) ~~“Nonindustrial”~~ *(1) Except as provided in paragraph (2),*
4 *“nonindustrial tree farmer” means an owner of timberland with*
5 *less than 2,500 10,000 acres who has an approved nonindustrial*
6 *timber management plan and is not primarily engaged in the*
7 *manufacture of forest products.*

8 *(2) For timberland in the Southern Sub-District of the Coast*
9 *District, “nonindustrial tree farmer” means an owner of*
10 *timberland with less than 2,500 acres who has an approved*
11 *nonindustrial timber management plan and is not primarily*
12 *engaged in the manufacture of forest products.*

13 (c) *(1) “Uneven aged management” means the management*
14 *of a specific forest, with the goal of establishing a well stocked*
15 *stand of various age classes and which, that permits the periodic*
16 *harvest of individual or small groups of trees to realize the yield*
17 *and continually establish a new crop, and that complies with*
18 *paragraph (2).*

19 *(2)(A) The forest shall be managed so that the volume of each*
20 *managed stand increases when measured over any 10-year*
21 *period until the stand reaches 80 percent of the site’s productive*
22 *capacity, as soon as reasonably possible.*

23 *(B) The board shall enact rules, on or before January 1, 2009,*
24 *to guide the department’s implementation of this paragraph.*

25 (d) “Sustained yield” means the yield of commercial wood
26 that an area of commercial timberland can produce continuously
27 at a given intensity of management consistent with required
28 environmental protection and ~~which~~ *that* is professionally
29 planned to achieve over time a balance between growth and
30 removal.

31 (e) “Nonindustrial timber management plan” means a
32 management plan for nonindustrial timberlands with an objective
33 of an uneven aged managed timber stand and sustained yield for
34 each parcel or group of contiguous parcels meeting the
35 requirements of Section 4593.3.

36 (f) “Nonindustrial timber harvest notice” means notice of
37 timber harvest operations pursuant to an approved nonindustrial
38 timber management plan and meeting the requirements of
39 Section 4594.

1 *SEC. 4. Section 4593.3 of the Public Resources Code is*
2 *amended to read:*

3 4593.3. A nonindustrial timber management plan may be
4 filed with the department in writing by a person who intends to
5 become a nonindustrial tree farmer with the long-term objective
6 of an uneven aged timber stand and sustained yield through the
7 implementation of a nonindustrial timber management plan. The
8 management plan shall be prepared by a registered professional
9 forester. It shall be a public record and shall include all of the
10 following information:

11 (a) The name and address of the timberland owner.

12 (b) A description of the land on which the plan is proposed to
13 be implemented, including a United States Geological Survey
14 quadrangle map or equivalent indicating the location of all
15 streams, the location of all proposed and existing logging truck
16 roads, and indicating boundaries of all site I classification
17 timberlands to be stocked in accordance with subdivision (b) of
18 Section 4561 and any other site classifications if the board
19 establishes specific minimum stocking standards for other site
20 classifications.

21 (c) A description of the silviculture methods to be applied and
22 the type of yarding equipment to be used.

23 (d) An outline of the methods to be used to avoid excessive
24 accelerated erosion from timber operations to be conducted
25 within the proximity of a stream.

26 (e) Special provisions, if any, to protect any unique area within
27 the boundaries of the proposed nonindustrial timber management
28 plan.

29 (f) A description of the existing stand, its current projected
30 growth, alterations required to achieve the management
31 objectives, the projected timber volumes and tree sizes to be
32 available for harvest, and projected frequencies of harvest.

33 (g) A certification by the registered professional forester
34 preparing the plan that he or she or a designee has personally
35 inspected the plan area.

36 (h) Any other information the board provides by regulation to
37 meet its rules and the standards of this chapter.

38 ~~(i) This section shall become operative on January 1, 1996.~~

39 *SEC. 5. Section 4593.6 of the Public Resources Code is*
40 *amended to read:*

4593.6. (a) Upon receipt of the nonindustrial timber management plan, the department shall place it, or a true copy thereof of the plan, in a file available for public inspection in the county in which timber operations are proposed under the plan; and, for. *The department, within two working days of receiving the nonindustrial timber management plan, shall post a copy of the plan on a publicly accessible Internet Web site. For the purpose of interdisciplinary review, the department shall transmit a copy to the Department of Fish and Game, the appropriate California regional water quality control board, the county planning agency, and all other agencies having jurisdiction by law over natural resources affected by the plan. The department shall invite, consider, and respond in writing to comments received from public agencies to which the plan has been transmitted and shall consult with those agencies at their request.*

(b) (1) The department shall convene at least one multi-agency site inspection of the land covered by the nonindustrial timber management plan at a time mutually agreeable to all reviewing agencies.

(2) The Department of Fish and Game shall inspect a site for a nonindustrial timber management plan that covers lands that include species that are listed, proposed for listing, or candidates for listing pursuant to either the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(3) The appropriate California regional water quality control board shall inspect a site for a nonindustrial timber management plan that covers lands that include one or more waterbodies listed as water quality impaired pursuant to subsection (d) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1313 (d)).

SEC. 6. Section 4593.7 of the Public Resources Code is amended to read:

4593.7. (a) The director ~~has 45~~ and the public have 90 days, 10 of which shall follow the date of final interagency review, from the date the initial ~~inspection~~ round of inspections is completed as provided in Section 4604, or a longer period mutually agreed upon by the director and the person submitting the nonindustrial timber management plan, to review the plan to

1 determine if the plan is in conformance with the rules and
2 regulations of the board and this chapter. *After the final review*
3 *and public comment period has ended, the director has up to 15*
4 *working days, or a longer period mutually agreed upon by the*
5 *director and the person submitting the plan, to review the public*
6 *input, consider recommendations and mitigation measures of*
7 *other agencies, respond in writing to the issues raised, and*
8 *determine if the plan is in conformance with the rules and*
9 *regulations of the board and with this chapter.* If the director
10 determines that the plan is not in conformance with the rules and
11 regulations of the board or this chapter, the director shall return
12 the plan, stating his or her reasons and advising the person
13 submitting the plan of the person's right to a hearing before the
14 board.

15 (b) If the director does not act within the time periods
16 provided in subdivision (a), a longer period shall be negotiated
17 and mutually agreed upon by the director and the person
18 submitting the nonindustrial timber management plan. If a longer
19 period cannot be mutually agreed upon, the nonindustrial timber
20 management plan shall be deemed denied and returned to the
21 person submitting the plan.

22 (c) A person to whom a plan is returned may, within 10 days
23 from the receipt of the plan, request the board for a public
24 hearing before the board. The board shall schedule a public
25 hearing to review the plan to determine if the plan is in
26 conformance with the rules and regulations of the board and this
27 chapter. Board action shall take place within 30 days from the
28 filing of the appeal, or a longer period mutually agreed upon by
29 the board and the person filing the appeal. If the plan is not
30 approved on appeal to the board, the director, within 10 days of
31 board action, may determine that the plan is in conformance if
32 the plan is revised to bring it into full conformance with the rules
33 and regulations of the board and this chapter.

34 SEC. 7. *Section 4593.12 is added to the Public Resources*
35 *Code, to read:*

36 4593.12. (a) *A nonindustrial timber management plan shall*
37 *comply with Article 6 (commencing with Section 916) of*
38 *Subchapter 4 of, Article 6 (commencing with Section 936) of*
39 *Subchapter 5 of, or Article 6 (commencing with Section 956) of*
40 *Subchapter 6 of, Chapter 4 of Division 1.5 of Title 14 of the*

1 *California Code of Regulations, whichever article is applicable,*
2 *as the articles existed on January 1, 2006, and as they may be*
3 *amended from time to time. However, if those articles are*
4 *amended or repealed, the nonindustrial timber management plan*
5 *shall include provisions at least as protective of the environment*
6 *as those required by the applicable article on January 1, 2006.*

7 *(5) Monitoring of the overall road management plan.*

8 *SEC. 8. Section 4594 of the Public Resources Code is*
9 *amended to read:*

10 4594. The nonindustrial tree farmer who owns, leases, or
11 otherwise controls or operates on all or any portion of any
12 timberland within the boundaries of an approved nonindustrial
13 timber management plan, and who plans to harvest any of the
14 timber ~~thereon~~ *on the timberland* during a given year, shall file a
15 nonindustrial timber harvest notice with the department in
16 writing. *Prior to filing the nonindustrial timber harvest notice,*
17 *the nonindustrial tree farmer shall conduct surveys for wildlife*
18 *and plants in the area to which the notice applies. The surveys*
19 *shall be in a form and to an extent acceptable to the Department*
20 *of Fish and Game, and the nonindustrial tree farmer shall*
21 *consult with the Department of Fish and Game after completing*
22 *the surveys, but before commencing operations.* A notice shall be
23 filed *both electronically and on paper* prior to the harvesting of
24 any timber and shall be effective for a maximum of one year
25 from the date of filing. If the person who files the notice is not
26 the owner of the timberland, the person filing the notice shall
27 notify the timberland owner by certified mail that the notice has
28 been submitted, and shall certify that mailing to the department.
29 The notice shall be a public record and shall include all of the
30 following information:

31 (a) The name and address of the timber owner.

32 (b) The name and address of the timber operator.

33 (c) The name and address of the registered professional
34 forester preparing the nonindustrial timber harvest notice.

35 (d) A description of the land on which the work is proposed to
36 be done.

37 (e) A statement that no archeological sites have been
38 discovered in the harvest area since the approval of the
39 nonindustrial timber management plan.

1 (f) A statement that no rare, threatened, or endangered plant or
2 animal species has been discovered in the harvest area since the
3 approval of the nonindustrial timber management plan.

4 (g) A statement that there have been no physical
5 environmental changes in the harvest area that are so significant
6 as to require any amendment of the nonindustrial timber
7 management plan.

8 (h) A certification by the registered professional forester that
9 the notice as carried out will implement best management
10 practices for protection of the beneficial uses of water, soil
11 stability, forest productivity, and wildlife as required by the
12 current rules of the board, or a certification that practices
13 consistent with the original plan will not result in any significant
14 degradation to the beneficial uses of water, soil stability, forest
15 productivity, or wildlife.

16 (i) Special provisions, if any, to protect any unique area within
17 the area of timber operations.

18 (j) The expected dates of commencement and completion of
19 timber operations during the year.

20 (k) A statement that the harvesting notice conforms to the
21 provisions of the approved management plan.

22 (l) Any other information the board provides by regulation to
23 meet its rules and the standards of this chapter.

24 ~~(m) This section shall become operative on January 1, 1996.~~

25 *SEC. 9. Section 4594.3 is added to the Public Resources*
26 *Code, to read:*

27 *4594.3. (a) Five years after approval of a timber*
28 *management plan pursuant to this article, and every five years*
29 *thereafter, the nonindustrial tree farmer shall submit to the*
30 *department a report that documents that operations are in*
31 *compliance with the plan and are achieving the goals expressed*
32 *in Sections 4512 and 4513 and in Sections 896 and 916 of Title*
33 *14 of the California Code of Regulations. The report shall*
34 *include, but not be limited to, a report on operations conducted*
35 *and a demonstration that the plan is in compliance with*
36 *subdivision (c) of Section 4593.2.*

37 *(b) The board shall adopt regulations to provide additional*
38 *guidance on the contents of the report to the department.*

39 *SEC. 10. No reimbursement is required by this act pursuant*
40 *to Section 6 of Article XIII B of the California Constitution for*

1 *certain costs that may be incurred by a local agency or school*
2 *district because, in that regard, this act creates a new crime or*
3 *infraction, eliminates a crime or infraction, or changes the*
4 *penalty for a crime or infraction, within the meaning of Section*
5 *17556 of the Government Code, or changes the definition of a*
6 *crime within the meaning of Section 6 of Article XIII B of the*
7 *California Constitution.*

8 *However, if the Commission on State Mandates determines that*
9 *this act contains other costs mandated by the state,*
10 *reimbursement to local agencies and school districts for those*
11 *costs shall be made pursuant to Part 7 (commencing with Section*
12 *17500) of Division 4 of Title 2 of the Government Code.*